

ЕВРОПЫН ГИШҮҮН ОРОН ДАНИ, ФРАНЦ, ГЕРМАН, ИРЛАНД, ИСПАНИ, АНГЛИ УЛСУУДЫН ОРОН НУТГИЙН СОНГУУЛИЙН ТОГТОЛЦООНЫ ЗАРИМ ЗОХИЦУУЛАЛТЫН ОНЦЛОГ

Энэхүү судалгааг “Сонгуулийн тухай хууль”-ийн ажлын хэсгийн гишүүн, Улсын Их Хурлын гишүүн Сундуйн Батболдын захиалгаар хийж гүйцэтгэв. УИХ-ын гишүүн С. Батболдын ирүүлсэн чиглэлийн дагуу Тамгын газрын Судалгааны төвийн ажлын баг нийтдээ Европын 7 орон (Унгар, Дани, Франц, Герман, Ирланд, Испани, Англи улс) -ын орон нутгийн сонгуулийн хууль тогтоомжид агуулгын шинжилгээ хийв.

Европын гишүүн орнууд болох Унгар, Дани, Франц, Герман, Ирланд, Испани, Англи зэрэг долоон улсуудын орон нутгийн сонгуулийн тогтолцоонд улс төрийн намууд хэрхэн оролцох оролцоо, орон нутгийн хурлын үйл ажиллагаанд улс төрийн албан тушаалтнуудыг сонгох, томилох зэргийг /Хавсралт - 1/ нэр дэвших насны доод хазгаар, улс төрийн нам нэр дэвшүүлэх эрх, (бие даан нэр дэвших эрх) сонгуулийн бүрэн эрхийн хугацаа зэрэг /Хавсралт -2/ судлавал зохих асуудлаар судалгаанд хамрагдсан улс орнуудыг харьцуулан хүснэгтээр харуулахын хамт жишээ болгон Европын холбооноос гишүүн орнуудад гаргасан зөвлөмжийг харгалзан Унгар улсын хувьд дэлгэрэнгүй судалгаа хийв.

Мөн түүнчлэн судалгааны эх сурвалж болох сайтын нэр, захиалагч илүү дэлгэрэнгүй мэдээл авах боломжийг бүрдүүлэн сайтаас татсан англи дээрх эх материалыг /Хавсралт - 3/ хавсаргав. Судалгаа хийхдээ тухайн улсын орон нутгийн сонгуулийн хуулийн агуулга, мөн чанар, онцлогын харьцуулалт, задлан шинжлэх, нэгтгэн дүгнэх аргыг ашиглав.

Орон нутаг дахь сонгуулийн тогтолцооны хэлбэр

Дани улсад сонгуулийн тогтолцоо нь хувь тэнцүүлэн төлөөлөх d Hondt аргаар явагдах бөгөөд хамгийн олон үлдсэн санал дээр үндэслэдэг. Сонгогчид улс төрийн нам эсхүл нэр дэвшигчид санал өгөх бөгөөд чадаагүй нэр дэвшигчид өгсөн саналуудыг нэр дэвшигчийн бүртгэлтэй намд шилжүүлдэг.

- Франц улсын хувьд орон нутгийн хүн амын тооноос хамаардаг. 3500-аас олон тооны оршин суугч нэг шилжих санал (STV) тай орон нутгийн нэгжид байх суудлын эхний хагасыг энгийн олонхид үндэслэн хуваарилах ба дараагийн хагас суудлыг хуваарилахдаа хувь тэнцүүлэн төлөөлөх d Hondt аргаар хэрэглэдэг бөгөөд таваас дээш хувийн санал авсан хүмүүсийн саналыг хуваарилна. 3500-аас олон тооны оршин суугчтай бол зөвлөхүүдийг энгийн олонхийн саналаар сонгоно.
- Герман улсад хамгийн дээд дунджийг эсхүл d Hondt арга дээр үндэслэдэг.
- Ирланд улсад олон суудалтай тойрогт нэг шилжих санал (STV) тай Droop quota тогтолцоо үйлчилдэг.
- Испани улсад орон нутгийн хэмжээнээс хамаарч сонгуулийн тойргийн тогтолцоо байдаг. Тухайн орон нутагт 250 болон түүнээс олон тооны оршин суугч байгаа бол d Hondt аргаар үйлчилнэ. Хязгаарлагдмал саналтай олонхийн тогтолцоо 250-аас цөөн тооны оршин суугчтай газар хэрэглэгддэг.
- Англи улсад хоёр сонгуулийн тогтолцоо байдаг. Хойд Ирландад нэг шилжих санал (STV), Их Британид энгийн олонхийн сонгуулийн тогтолцоо буюу хэн түрүүлж гарсан нь сонгогдох буюу хамгийн олон санал авсан нь сонгогддог тогтолцоо байдаг.

Унгар улсын орон нутгийн сонгуулийн хууль

2010 онд БНУУ-ын Улсын хурал “Орон нутгийн хурлын төлөөлөгчид ба засаг даргыг сонгох тухай” 1990 оны LXIV (64 дүгээр) хуулиа Европын холбооноос гишүүн орнуудад

гаргасан зөвлөмжийг харгалзан шинэчлэн баталжээ. Ингэснээр 15 бүлэг, 63 зүйл, 5 хавсралт бүхий хуулиа 6 бүлэг, 25 зүйлтэй болгон өөрчилжээ. Орон нутгийн хурлын төлөөлөгчдийн тоог цөөрүүлж, сонгуулийн компанийн хугацааг багасгасан байна. Сонгуулийн кампанийн үргэлжлэх хугацааг 60 хоногоор тогтоожээ.

Нутгийн хурлын төлөөлөгчдийн тоо нь оршин суугчдын тооноос хамаарна. 10 мянга хүртэл оршин суугчидтай хот, тосгон хүн амаасаа хамаарч 2-8 төлөөлөгчийг шууд нэрсээр сонгох бол 10 мянгаас дээш хүн амтай хот, суурин газрууд хүн амынхаа тооноос хамааран тодорхой тооны төлөөлөгчдийг шууд нэрсээр сонгохоос гадна нэр дэвшээд сонгогдоогүй хүмүүсийн авсан саналын тоотой пропорционалиар саналын компенсацийн жагсаалтаар сонгоно. Гэхдээ энэ компенсацийн жагсаалтаар сонгогдсон төлөөлөгчдийн тоо нь шууд сонгогдсон төлөөлөгчдийн тооны 50 хувиас хэтрэхгүй. Тухайлбал:

А. Мужаас дооших нутаг дэвсгэрийн нэгж

1. 10000 ба түүнээс доош хүн амтай нутаг дэвсгэрийн нэгж сонгуулийн нэг тойрог болох ба уг тойргоос нэрсийн жагсаалтаар санал авч,
 - 100-гаас доош хүн амтай бол 2 төлөөлөгч
 - 1000-аас доош хүн амтай бол 4 төлөөлөгч
 - 5000-аас доош хүн амтай бол 6 төлөөлөгч
 - 10000-аас доош хүн амтай бол 8 төлөөлөгч тус тус сонгоно
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2. 10000-аас дээш хүн амтай нутаг дэвсгэрийн нэгж, нийслэлийн дүүргүүдэд холимог системээр сонгууль явуулна. Шууд нэрсийн жагсаалтаар тодорхой тооны нэр дэвшигч сонгогдох ба тэдгээрийн авснаас цаана үлдсэн саналаар компенсацийн жагсаалт бүрдүүлнэ.
 - 25000 хүртэл оршин суугчтай бол 8 төлөөлөгч шууд нэрсийн жагсаалтаар, 3 төлөөлөгч компенсацийн жагсаалтаар сонгогдоно.
 - 50000 хүртэл оршин суугчтай бол тус тус 10 ба 4 төлөөлөгч
 - 75000 хүртэл оршин суугчтай бол тус тус 12 ба 5 төлөөлөгч
 - 100000 хүртэл оршин суугчтай бол тус тус 14 ба 6 төлөөлөгч сонгогдоно.
3. 100000-аас дээш оршин суугчтай бол дээш гарсан 10000 хүн тутамд 1 нэр дэвшигч нэрсийн жагсаалтаар, 25000 хүн тутамд 1 хүн компенсацийн жагсаалтаар сонгогдоно.

Б. Нийслэл

Нийслэл Будапешт хотын Ассамблейн гишүүдийг бүх хот нэг тойрог байхаар сонгууль явуулах бөгөөд 50000 оршин суугч тутмаас нэг төлөөлөгч сонгогдож байхаар гишүүдийн тоог тогтооно.

В. Муж

Мужийн хурлын төлөөлөгчдийг сонгохдоо муж нэг тойрог байхаар зохион байгуулна. Төлөөлөгчдийн тоог мужийн оршин суугчдын тоотой харьцуулан тогтооно.

- 400000 хүртэл оршин суугчтай бол 20000 оршин суугч бүрт 1 төлөөлөгч, гэхдээ нийтдээ 15-аас доошгүй байх
- 700000 хүртэл оршин суугчтай бол 20 төлөөлөгч байна. Гэхдээ 400000-аас дээш гарсан 30000 хүн тутамд 1 төлөөлөгч оногдож байхаар сонгууль явуулна.

- 700000-аас илүү оршин суугчтай бол дээш давсан 40000 хүн тутамд 1 төлөөлөгч оногдож байхаар тооцно.

Нэрсийн ба компенсацийн жагсаалт

Мужаас дооших нутаг дэвсгэрийн нэгжид мажоритараар сонгууль явуулах үед гишүүн сонгох болон засаг дарга сонгох нэр дэвшигчдийн нэг нэг жагсаалт байх бөгөөд нэр дэвшигч зөвхөн аль нэгд нь нэрээ дэвшүүлнэ. Холимог системээр явагдах сонгуульд мужаас дооших нутаг дэвсгэрийн нэгж болон муж, мужийн эрхтэй хот, нийслэлд тус бүрт нь хурлын төлөөлөгчид нэр дэвшигчдийн 1 нэрсийн жагсаалт, 1 компенсацийн жагсаалт байна. Нэр дэвшигчид тухайн сонгуулийн тойрогтоо энэ 2 жагсаалтын аль алинд нь нэрээ дэвшүүлж болно. Хэрэв жагсаалтаар хоёулангаар нь сонгогдсон бол 30 хоногийн дотор сонголтоо хийж аль нэг жагсаалтаас нэрээ хасуулна.

Холимог системээр засаг даргыг сонгох үед нэр дэвшигч мөн хурлын төлөөлөгчийг сонгох нэрсийн ба компенсацийн жагсаалтад аль алинд нь нэрээ дэвшүүлж болно. Нийслэлийн засаг даргад нэр дэвшигч зөвхөн нийслэлийн жагсаалтанд нэрээ дэвшүүлнэ. Нийслэл болон мужид, муж болон мужийн эрхтэй хотод зэрэг нэр дэвшүүлж болохгүй.

Нэр дэвшигч ба нэр дэвшүүлж буй намд тавих шаардлага

Мажоритараар сонгууль явуулж буй тойрогт нэр дэвшигч тухайн тойргийн сонгогчдын дор хаяж 1%-ийн дэмжлэг авч байж нэр дэвшинэ. Холимог системээр сонгууль явуулах тойрогт нэр дэвшүүлэх нам тухайн тойргийн сонгогчдын дор хаяж 1%-ийн дэмжлэг авсан байх ёстой.

Засаг даргад нэр дэвшигч:

- 10000 хүртлэх оршин суугчтай тойрогт сонгогчдын 3%-ийн дэмжлэг авсан,
- 10000-аас дээш 100000-аас доош оршин суугчтай тойрогт сонгогчдын 2%, гэхдээ 300-гаас доошгүй сонгогчдын дэмжлэг авсан
- 100000-аас дээш оршин суугчтай тойрогт сонгогчдын 1%, гэхдээ 2000-аас доошгүй сонгогчдын дэмжлэг авсан байж нэр дэвшинэ.
- Нийслэлийн засаг даргад нэр дэвшигч сонгогчдын 2%-иас доошгүйн дэмжлэг авч байж нэр дэвшинэ.

Нэр дэвшүүлэх намын хувьд:

- 10000-аас дээш оршин суугчтай тойрогт улс төрийн нам компенсацийн жагсаалт гаргахын тулд уг нутаг дэвсгэр дэхь мажоритараар сонгох тойргуудын дор хаяж талаас илүүд нь нэр дэвшигчтэй байх ёстой.
- Нийслэлийн дүүргүүдийн талаас илүүд нь компенсацийн жагсаалт гаргасан нам нийслэлийн хуралд нэр дэвшүүлэх эрхтэй.
- Аль нэг тойрогт нэр дэвшсэн байсан хүн нэрээ татснаар намынх нь нэр дэвшүүлэх эрх хүчингүй болохгүй.

Намууд хамтарсан жагсаалт гаргах

- Мажоритараар шууд сонгох тойргуудын талаас илүүд хамтран нэр дэвшүүлсэн намууд хамтарсан компенсацийн жагсаалт гаргаж болно.
- Нийслэлийн дүүргүүдийн талаас илүүд нь хамтарсан компенсацийн жагсаалт гаргасан намууд нийслэлийн шууд сонгох тойрогт хамтран нэр дэвшүүлж болно.
- Намууд мужийн сонгогчдийн 1% буюу дор хаяж 2000-аас доошгүй сонгогчийн

дэмжлэгийг хамтран авсан бол мужийн шууд сонгох тойрогт хамтран нэр дэвшүүлж болно.

Сонгуулийн систем ба дүн гаргах

1. Засаг даргыг сонгох

- Засаг даргыг сонгогчид шууд сонгоно. Хамгийн олон санал авсан нэр дэвшигч засаг дарга болно.

2. Шууд сонгох систем

- Хүчинтэй саналын хуудсаар хамгийн их санал авсан нэр дэвшигчид сонгогдоно. Саналын тоо тэнцвэл сугалаа явуулна.
- Сонгогч сонгуулийн хуудсанд мандатын тоогоор тэмдэглэгээ хийнэ.
- Төлөөлөгчөөр сонгогдсон хүн засаг даргаар сонгогдвол түүнийг жагсаалтаас хасч дараагийн хүн нь сонгогдоно.

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3. Холимог систем

- Хүчинтэй саналын хуудсаар хамгийн их санал авсан нэр дэвшигчид шууд сонгогдоно.
- Тойрогт шууд сонгогдсон нэр дэвшигчдийн авсан саналаас гадна үлдсэн саналаас нам бүр өөрийн авсан саналтай пропорционалиар компенсацийн жагсаалтад мандат авна.
- Нам шууд санал хураалтаар 5%-иас доош санал авсан бол компенсацийн жагсаалтаар мандат авахгүй.

Хавсралт 1.

ОРОН НУТГИЙН СОНГУУЛЬ ДАХЬ УЛС ТӨРИЙН НАМУУДЫН БОЛОН ОРОН НУТГИЙН ХУРЛЫН БАЙГУУЛЛАГЫН ҮЙЛ АЖИЛЛАГААН ДАХЬ УЛС ТӨРИЙН НАМУУДЫН ОРОЛЦОО

	Үзүүлэлт	Испани улс	Холбооны Бүгд Найрамдах Герман Улс	Англи улс	Ирланд улс	Дани улс
1.	Хуулийн нэр	“Орон нутгийн засаг захиргааны үндсэн хууль”. 1979 онд энэ хуулиар ардчилсан орон нутгийн сонгуулийг явуулсан.	Дэлхийн 2 дугаар дайны дараагаас орон нутгийн сонгуулиа “Орон нутгийн засаг захиргааны хууль”-иар явуулдаг болсон.	2000 онд парламентаар батлагдсан “Орон нутгийн засаг захиргааны акт”-аар орон нутгийн сонгуулийг зохицуулдаг.	1898 онд “Орон нутгийн захиргааны Ирландын акт”-ыг батлан гаргасан.	1953 оны “Үндсэн хуулийн акт”-аар орон нутгийн сонгуулийг зохицуулдаг.

2.	Орон нутгийн сонгууль дахь улс төрийн намуудын оролцооны эрх зүйн зохицуулалт	Орон нутгийн зөвлөлтэй ¹ . Зөвлөлийн гишүүдийг улс төрийн нам санал болгож, иргэдээс сонгодог. Гишүүн нас барсан тохиолдолд сонгууль явуулахгүй сонгуульд орсон санал авсан нэрсийн жагсаалтаар дараагийн хүнийг шууд сонгодог. Олонхи суудал авсан намын гишүүдээс зөвлөлийн даргыг томилдог.	Улс төрийн намаас нэр дэвшсэн гишүүдтэй зөвлөл орон нутгийн удирдлагыг хэрэгжүүлдэг.	Улс төрийн намын харьяалалтай гишүүдээр дамжуулан тухайн орон нутгийн зөвлөлд намын бодлогоо хэрэгжүүлдэг.	Орон нутгийн зөвлөлтэй байна. Зөвлөл нь пропорциональ системээр бүрддэг. Зөвлөл нь гол улс төрийн намаас хамааралтай.	Орон нутгийн зөвлөл нь улс төрийн намуудаас нэр дэвшүүлж, сонгогдсон төлөөллөөс бүрдэнэ.
3.	Орон нутгийн хурлын байгууллагын үйл ажилгаанд улс төрийн намуудын оролцоо	Олонхи болсон намын санал болгож томилуулсан Зөвлөлийн дарга нь орон нутгийн захиргааны бүх томилгоог хийдэг. Энэхүү томилгоогоороо дамжуулан нам нь улс төрийн бодлогоо хэрэгжүүлдэг.	Мужын орон нутгийн зөвлөлийн гишүүдийн дундаас захирагчийг сонгодог.	Мужын зөвлөлийг иргэдээс шууд сонгогдсон захирагч удирддаг.	Орон нутгийн зөвлөлийг гол улс төрийн намаас нэр дэвшүүлж, сонгогдсон захирагч удирдана.	

* * *

Хавсралт 2

ГАДААДЫН ЗАРИМ ОРНЫ СОНГУУЛИЙН ТОГТОЛЦООНЫ ТАЛААРХИ ХАРЬЦУУЛАЛТ

Улсын нэр	Нэр дэвшүүлэх хэлбэр	Нэр дэвшүүлэх нас	Бүрэн эрхийн хугацаа	Сонгуулийн төрөл	Санал авах загвар	Нэр дэвшигчийн жагсаалт
ДАНИ	Улс төрийн нам, бие даан нэр дэвшигч	18	4 жил	Хувь тэнцүүлэх	d Hondt	Намын жагсаалт
ФРАНЦ	Улс төрийн нам, бүлэглэл, бие даан нэр дэвшигч	18	6 жил	3500-аас олон тооны оршин суугчтай бол хувь тэнцүүлэх	d Hondt	3500-аас дээш тооны оршин суугч нээлттэй
ГЕРМАН	Улс төрийн нам, бие даан нэр дэвшигч	18	5/6 жил		d Hondt	Намын жагсаалт
ИРЛАНД	Улс төрийн нам, бие даан нэр дэвшигч	18	5 жил	Хувь тэнцүүлэх	нэг шилжих санал (STV)	
ИСПАНИ	250-аас цөөн тооны оршин суугчтай хувь тэнцүүлэх	18	4 жил	250-аас цөөн тооны оршин суугчтай хувь тэнцүүлэх	d Hondt	Намын жагсаалт хаалттай
АНГЛИ	Улс төрийн нам, бие даан нэр дэвшигч	8	4 жил	нэг шилжих санал (STV)	Дийлэнхи олонхи	

Хавсралт 3

Испани улс

<http://countrystudies.us/spain/79.htm>

Local Government

Institutions of local government have undergone marked transformations since the Franco era, when they functioned primarily as instruments of the central government. The overhauling of administration at the local level had to wait, however, until a degree of political reform had been achieved at the national level. The first fully democratic local elections following Franco's demise were held in 1979, and limited reforms were introduced at the local level in 1981, but it was not until 1985 that the fundamental reorganization and democratization of local administration was completed with the passage of the Basic Law on Local Government (Ley Reguladora de las Bases de Regimen Local--LRBRL).

This law outlines the basic institutions at the municipal and the provincial levels, establishes guidelines for the sharing of responsibilities among the different tiers of administration, and lists the services that local authorities are to provide. The responsibilities of municipalities vary in proportion to the size of their populations. Municipal governments share responsibility with the regional government in matters of health and education. Both the central and the regional governments may delegate additional powers to municipalities. Because of the degree of authority that has been devolved to the autonomous communities from the central government, local institutions are politically dependent on these communities; however, they remain to a large extent financially dependent on Madrid.

Government at the municipal level is administered by a Municipal Council, the members of which are directly elected by universal suffrage and according to proportional representation. The number of council members is determined by the population of the municipality; a minimum of five is required by law. There is no limit to the number of times councillors may be re-elected. If they die, resign, or are dismissed, they are replaced by the next person on the electoral list of their political party; therefore, there are no by-elections.

The council is elected every four years, and it cannot be dissolved. The law requires it to meet in full session at least every three months; extraordinary sessions can be called by either the mayor or one-fourth of the council membership. The council does not formulate major laws, but drafts regulations related to legislation from the Cortes or the regional parliament. It oversees the budget, and it may raise taxes to supplement grants from the central and the regional governments.

Each Municipal Council is headed by a mayor, who is elected following local elections, from among the council members, and who, in most instances, serves as the leader of the majority party in the council. In addition to being chairman of the council, directing municipal administration, heading the municipal police force, and exercising extensive powers of appointment, the mayor plays a major public relations role and enjoys a great deal of prestige.

Municipalities of more than 5,000 inhabitants have a Municipal Commission to assist the mayor in the exercise of his duties. Municipal administration in such towns is divided into departments and districts, the leaders of which are ultimately responsible to the mayor.

Government at the provincial level has retained an element of its Francoist function as an outpost of the state. The Constitution defines the provinces as territorial divisions "designed to carry out the activities of the central government." The civil governor, who is the highest

executive of the state administration at the provincial level, is appointed by the prime minister on the recommendation of the minister of interior. Thus, the governors are usually political appointees, as was the case during the Franco regime, although they have less power than they did formerly. They continue to be responsible for the state police and the security forces that operate at the provincial level. In addition to ensuring the implementation of state policies in the provinces, they function as a liaison between local authorities and the central government. Provincial government is administered by a Provincial Council, which consists of deputies elected by the municipal councillors from among themselves. They remain on the Provincial Council for four years and may be re-elected for as many terms as they remain municipal councillors. As is the case with the municipal councils, the Provincial Council does not have the power to draft major laws, but it may establish regulations based on legislation from the Cortes or the regional parliament.

Each Provincial Council is headed by a president, who is elected by all the members of the full council. Although the civil governor is the highest representative of the central government in the province, the president of the Provincial Council has the responsibility for the government and administration of the province. The office of president of the Provincial Council was established during the Franco years, but it was largely overshadowed by that of the civil governor. Since the advent of democracy to Spain, the council president has acquired more prestige, and the role of the governor has been reduced.

Provincial government is administered differently in the Basque provinces, the single-province autonomous communities, the Balearic Islands, and the Canary Islands. The Basque provinces have more extensive privileges because of their status as "historic territories," which makes their provincial councils more powerful than those of other provinces. The autonomous communities that are made up of a single province assume all provincial powers and responsibilities, thereby obviating the need for provincial institutions. Because of the geographical separation that exists within the island chains, government and administration have been entrusted to island councils, which enjoy greater powers than their provincial counterparts. The small North African enclaves of Ceuta and Melilla have a special status: they are organized as municipalities of the provinces of Cadiz and Malaga, respectively. In both towns, civil authority is vested in an official, called the delegado del gobierno, who is directly responsible to the Ministry of Interior in Madrid. In 1986 the enclaves received municipal autonomy under the provisions of Spain's devolution of authority to regions, but, unlike Spain's other regional assemblies, they were not granted legislative powers. In March 1986, a large crowd of demonstrators in Ceuta protested this denial of full autonomy.

Герман улс

Appendices

1. Local Government Laws in North RhineWestphalia Until September 1999 Since September 1999 Double-top, consisting of a mayor and Uniform top communal director

Mayor leads Council sessions. Mayor leads administration deputies.

Council elects Mayor. Mayor is elected (for the first time in 1999) by citizens.

Council elects the communal director. Mayor leads Council sessions.

Council elected by the citizens. Council is elected by citizens.

Council elects deputies. Council elects deputies.

Council controls administration. Council controls administration.

Communal director leads administration Administration deputies work for deputies. citizens.

Administration deputies work for citizens.

<http://www.iuscomp.org/gla/literature/localgov.htm>

Герман улс

Introduction: Local government administration in Germany

The position of municipalities in the government and administrative structure

The local autonomy of towns, municipalities and districts is a key element of modern constitutional states. It is "local democracy". The guaranteed rights of towns, municipalities and districts, laid down in the Basic Law for the Federal Republic of Germany and in the constitutions of the Lnder, to organise and administrate the affairs of the local community themselves is the expression of democracy in practice and is an indispensable element of a rule of order that ensures freedom. Local autonomy safeguards the power of decision at local and district level for the people and presents it as an important element of a decentralised distribution of powers.

The Federal Republic of Germany is a state governed by the rule of law in which the principle of the separation of powers applies. For this reason, the distribution of state power is not only horizontal into the legislature, the executive and the judiciary. State power is also divided vertically, i.e. into the organs of the Federation, the 16 Lnder and the local authorities (municipalities, towns and districts). The principle of subsidiarity plays an important role in local autonomy; it obliges the state to assist the smaller, subordinate entities such as Lnder, districts and local authorities, but it prevents the state from intervening in their tasks if they can perform them on their own.

In Germany today there are five constitutionally distinct and legally independent political levels. From top to bottom they are:

- The level of the **European Union** as the association of various European nation states,
- The level of the **Federal Republic of Germany** as a nation state with constitutional sovereignty vis-a-vis other states,
- The level of the 16 **Lnder** as member or subordinate states without sovereignty vis-a-vis other states, including the state intermediate authorities (regional government, chief official in a region),
- The level of the **districts** and the **towns not belonging to a district** and
- The level of the **towns and municipalities**.

Districts, towns and municipalities are included in local autonomy. In this connection, it must be remembered that the districts (and the towns not belonging to a district) have to fulfil particular functions. They are regional authorities and an association of local authorities and, at the same time, they are also lower state administrative authorities. Local government tasks are divided between the districts on the one hand and the towns and municipalities on the other according to the principle that the supralocal services that cannot be provided by the municipalities are largely provided by the districts.

Thus, for example, the construction and maintenance of a waste disposal facility exceed the financial means of an individual municipality. The district takes on this task for all municipalities belonging to the district.

The structure of the districts is similar to that of the municipalities. Their parliament, the district council, is elected by the district's population. The district council - just like the town council in the towns - is the main organ of the district's autonomy. The administration of the services provided by the towns and municipalities has priority over the responsibility of the districts. The supralocal districts are, therefore, only responsible if a task exceeds the capacity of a municipality to provide a service. The responsibility of the towns and municipalities has priority.

Municipalities and the state

The municipalities form a part of the state's authority. They are termed the lowest level in the state and administrative structure, below the Federation and the Lnder. Each one of these levels is represented and legitimised by parliaments. When looking at the relations between local authorities to the higher levels, a distinction must be made between the relations of towns, municipalities and districts to the Federation on the one hand and to the respective Land on the other.

In principle, the Federation is only the guarantor of the institutions of local government, but has - apart from a few exceptions - no direct relations to individual municipalities or districts. However, with its legislation the Federation influences the municipalities in many ways. These laws affect the local authorities in their capacity as links in the state structure and oblige them to implement the federal laws and have financial consequences, such as payment of social benefit.

The relations of local administrations to their respective Land are very close. This is a result of the fact that the towns, municipalities and districts are constitutional elements of the Land in question. They are directly integrated in the administrative structure of the Land. In most of the Lnder there is a three tier administrative structure. Supreme Land authorities are the Land governments and the Land ministries. Intermediate Land authorities are mostly called regional governments. The lowest Land authorities are integrated in the district administrations and the towns not belonging to a district. The Land authorities are state administrative units whereas the towns and municipalities are local authorities. The districts and towns not belonging to a district are lower state authorities and local authorities at the same time.

The basis for the close interlinkage between the Lnder and "their" local authorities is in the Basic Law for the Federal Republic of Germany. According to the division of responsibilities in the Basic Law, the power to regulate local government law lies with the Lnder. The organisation and responsibilities, rights and duties of the municipalities are thus regulated in the local government laws of each of the Lnder.

Constitutional foundations of local autonomy

Local autonomy in the Federal Republic of Germany is guaranteed in Article 28 of the Basic Law and in the corresponding provisions of the Land constitutions. According to this Article the constitutional order of the Lnder must conform to the principles of the republican, democratic and social state governed by the rule of law.

In the Lnder, districts and municipalities the people must have a parliament, according to Article 28 (1) of the Basic Law, elected by general, direct, free, equal and secret ballots. Thus, the requirements of Federal elections are also constitutionally required for the Lnder and local authorities.

Article 28 (2) of the Basic Law guarantees the municipalities local autonomy by granting them the right to manage all their own affairs on their own responsibility within the limits set by the law. The right of self-government also includes responsibility for financial matters.

The guarantee of local autonomy prohibits Federal and Land legislation from removing the rights of the local authorities to manage their own affairs or from restricting this right to such an extent that the substance of the autonomy is taken away from within. Although local autonomy may be inviolable in principle as an organisational form it does not contain any guarantee of existence for an individual municipality. Municipalities can be dissolved by means of an act of

parliament, tasks can be taken away from them or assigned to them if special reasons of the public well-being speak for this action. These reasons are deemed to be the case if essential territorial and functional reforms are being carried out provided that the structural principle of local autonomy per se remains unaffected.

The following sovereign rights largely belong to the responsibility of the municipality and they cannot be infringed by the Federation or the Lnder within the limits of higher laws:

- **Personnel sovereignty:** This grants the municipalities the right to select, engage, promote and dismiss staff.
- **Organisational sovereignty:** This encompasses the right for the municipalities to organise the administration themselves.
- **Planning sovereignty:** This grants the municipalities the power to organise and shape municipality territory under their own responsibility by drawing up urban development plans (land use and building plans).
- **Legislative sovereignty:** This entails the right to pass municipality bylaws.
- **Financial sovereignty:** This entitles the municipalities to be responsible for managing their income and expenditure.
- **Tax sovereignty:** This grants the municipalities the right to raise taxes (provided that this right has not been revoked by a higher law).

Municipalities and the European Union

In recent years it has been an important task of the European Union (EU) to create an appropriate legal framework to facilitate the growing together of European states to the benefit of their citizens. One important element within the European unification process is guaranteeing and securing the municipalities' right to autonomy. In this process great care is taken to ensure that local autonomy is not weakened or even impaired in the course of European unification. The Member States of the European Union themselves granted high priority to the independence of local authorities in the European Charter of Local Government. The law in the Federal Republic of Germany and the Federal Lnder is in line with the principles anchored there.

In addition to these matters of local government law the EU exerts further influence on local authorities in Germany, as can be seen, among other things, in the consequences of the Maastricht Treaty. Thus, for example, local authorities have to observe European regulations directly. Approximately half of the EU Directives concerning the single market are to be implemented by the local authorities; for instance this applies to competition policy including invitations to tender for local authority building projects and sales of plots of land, to utilities, water quality control, waste policy and the freedom of competition for various freelance workers who are traditionally of particular importance in local authority policy.

The local authorities no longer exclusively deal with higher German policy and administrative levels, they must also deal with an additional European authority. As a result of this there are new constraints on action for the municipalities, but also new opportunities. For example, new opportunities arise from active participation in the Committee of the Regions, an EU advisory body, made up of, among others, representatives from the regions and local authorities.

2. Historical development of the municipalities

There have been municipalities for many centuries and they already exist as original forms of organisation before the state penetrates a country with its administration[*]. Although many municipalities can look back on an extremely long history - for example Bonn, which is 2,000 years old - local autonomy as we know it in Germany today has its roots in the Prussian Local Government Code of 1808 developed by the German statesman and reform politician Karl Freiherr vom und zum Stein (1757 - 1831). The true historical significance of Stein's local government

reform lay in the fact that it no longer regarded the towns and municipalities to be mere appendages of a totally dominant state. Much rather the local authorities were to be independent elements and thus the third force in the state and administrative structure alongside the "Reich" and the "Land". The political objective of Stein's Local Government Code was to unite the civic element with the state, to alleviate the opposition between the authorities and the subjects and to revitalise and reinforce the sense of community and the individual's political interest by involving the citizens in public administration.

Institutionally, Stein's Local Government Code, which was revised in 1831, made provision for a Town Council Meeting that elected a Magistrat as the head of the administration. Although the local authority policy of Stein's Local Government Code could be designated civic local autonomy it was lacking a democratic component: only property-owning male citizens were permitted to participate.

In the course of the general developments of the 19th century, however, the citizens' and electoral rights in the local government sector were slowly liberalised and anchored in the constitution.

The division of tasks between the state and the municipalities was not clearly regulated in the Constitution of the German Kaiserreich meaning that the administrative courts had to decide on differences of opinion. In contrast to this the Weimar Reich Constitution of 11 August 1919 vouched for the right of local autonomy within the limits of the law. Since the right to local autonomy was only regarded as an organisational principle of the state there were occasional direct interventions in local autonomy.

The Local Government Law of 1935 interrupted the tradition of local autonomy. The introduction of the so-called Führer principle and the restriction of the responsibilities of municipality administrations to advisory functions made local autonomy into an auxiliary instrument of the centralistic state.

The constitutions issued in each of the Länder after the Second World War made new provisions for the fundamental principles of local government law. Building upon this, the individual Local Government Laws were issued in which the various influences of the occupying powers could clearly be seen.

Герман улс

http://www.citymayors.com/government/germany_government.html

Local government

In all but one of the 16 Länder, the council system exists whereby each local government, in the form of the municipal council, is generally elected on a five year term, though this can vary between four and six years.

Each council is headed by an elected mayor, known as the Bürgermeister, who acts as head of both the council and the administration. The mandate can vary from four to nine years. In the Land of Hessen however, the magistrat system is used, whereby the mayor presides over magistrates appointed by the council to act as the administration. Common responsibilities of this tier include planning, water management, social welfare and the building and maintenance of schools. Some councils also engage in cultural, economic development and energy-related activities, depending on the Land.

There are around 14,000 municipalities in the 16 Länder. Above the local tier and beneath the Länder, a tier of 300 units of local administration known as Kreise (districts) also exists. These are overseen by a district council, with a mandate varying between one and four years, again

according to the Land. Aside from the legislative function of its council, the administration (Landratsamt) is headed by a district president (Landrat), who is either appointed by the council or directly elected for a five to eight year term. This tier engages in the construction and maintenance of roads, some aspects of social welfare and waste management, though some are also able to engage in tourism promotion, libraries and higher education.

Cities represent the lowest level within the three administrative levels (federal, state, city) in Germany. The Federation and the Länder put certain tasks to the municipalities – they are also supposed to allocate the corresponding funding with it which, in reality, is not always the case. Within the framework of self-administration, the cities organise and administrate their own voluntary activities which they also have to pay for from the cities own budgets.

The cities' own activities are part of the city's so-called own circle of responsibility. These may be voluntary or they may be prescribed by the state as obligatory. In such cases, the state does not interfere in the implementation of such activities nor does it issue instructions. Also the cities have to take care of additional tasks which have been allocated to them by the state. These tasks are part of the so called circle of allocated responsibilities in which the state uses municipal institutions and organises the implementation of allocated responsibilities by instructions.

Voluntary activities are fulfilled by the municipality and the municipality itself decides how these are handled. Another field of activity are the obligatory areas which are not directed from above, like water, waste disposal, energy supply and such. The municipality is free to handle activities in these fields on their own or elect to outsource them to private businesses, which has become a common practice during recent years. The so-called activities commissioned by the Land are carried out by the municipal administration in its area, as the lowest official body in the federal system. These include the organisation of elections, the registration for the military and others.

http://en.wikipedia.org/wiki/Local_government_in_England

Англи улс

Councillors and mayors

Main articles: Cabinet-style council and Elected mayors in the United Kingdom

Councils have historically had no split between executive and legislature. Functions are vested in the council itself, and then exercised usually by committees or subcommittees of the council. The post of leader was recognised, and leaders typically chair several important committees, but had no special authority. The chair of the council itself is an honorary position with no real power. Under section 15 the Local Government and Housing Act 1989, committees must roughly reflect the political party makeup of the council; before it was permitted for a party with control of the council to “pack” committees with their own members. This pattern was based on that established for municipal boroughs by the Municipal Corporations Act 1835, and then later adopted for county councils and rural districts.

In 2000, Parliament passed the Local Government Act 2000 to require councils to move to an executive-based system, either with the council leader and a cabinet acting as an executive authority, or with a directly elected mayor – either with a mayor and cabinet drawn from the councillors – or a mayor and council manager. There is a small exception to this whereby smaller district councils (population of less than 85,000) can adopt a modified committee system. Most councils are using the council leader and cabinet option, while 52 smaller councils have been allowed to propose alternative arrangements based on the older system (Section 31 of the Act), and Brighton and Hove invoked a similar provision (Section 27(2)(b)) when a referendum to move to a directly elected mayor was defeated.



There are now twelve directly elected mayors, in districts where a referendum was in favour of them. Many of the mayors are independents (notably in Hartlepool and Middlesbrough, which in parliamentary elections are usually Labour Party strongholds). Since May 2002, only a handful of referendums have been held, and they have all been negative apart from Torbay. Of the mayors, all but Stoke-on-Trent's are mayor and cabinet-based. The Executive, in whichever form, is held to account by the remainder of the Councillors acting as the "Overview and Scrutiny function" - calling the Executive to account for their actions and to justify their future plans. As a relatively new concept within local government, this is arguably an under-developed part of local municipal administration. In a related development, the Health and Social Care Act 2001, Police and Justice Act 2006, and 2006 local government white paper set out a role for local government Overview and Scrutiny in creating greater local accountability for a range of public-sector organisations.

Boroughs in many cases are descendants of municipal boroughs set up hundreds of years ago, and so have accreted a number of traditions and ceremonial functions. Where borough councils have not adopted a directly elected mayor, the chair of the council is the mayor. In certain cities the mayor is known as the Lord Mayor. The chairman of a town council is styled the Town Mayor.

Councils may make people honorary freemen or honorary aldermen. A Mayor's term of office denotes the municipal year.

Elections

The area which a council covers is divided into one or more electoral divisions – known in district and parish councils as "wards", and in county councils as "electoral divisions". Each ward can return one or more members; multi-member wards are quite common. There is no requirement for the size of wards to be the same within a district, so one ward can return one member and another ward can return two. Metropolitan borough wards must return a multiple of three councillors, while until the Local Government Act 2003 multiple-member county electoral divisions were forbidden.

In the election, the candidates to receive the most votes win, in a system known as the multi-member plurality system. There is no element of proportional representation, so if four candidates from the Mauve Party poll 2,000 votes each, and four candidates from the Taupe Party poll 1,750 votes each, all four Mauve candidates will be returned, and no Taupe candidates will. Although this has been said by some to be undemocratic,^[3] minor and local single-issue parties do tend to do much better at local elections than they do in general elections, so the case for reform is perhaps less clear. In any event, the system is not likely to change for the foreseeable future.

The term of a councillor is usually four years. Councils may be elected wholly, every four years, or "by thirds", where a third of the councillors get elected each year, with one year with no elections. Recently, the "by halves" system, whereby half of the council is elected every two years, has been allowed. Sometimes wholesale boundary revisions will mean the entire council will be re-elected, before returning to the previous elections by thirds or by halves over the coming years.

http://www.citymayors.com/government/ireland_government.html

Ирланд улс

Local government in Ireland

British with a distinct Irish accent

By Andrew Stevens, Deputy Editor

26 May 2009: Local government in the Republic of Ireland predates its national political struc-

tures, with much of the constitutional arrangements laid down under British rule in the late nineteenth century remaining in place. Ireland's local government arrangements consist of 29 county and county borough councils with a set of smaller town and in some cases borough councils at the sub-tier. Irish councils serve 4.1m people and have lost many of their powers to centralising instincts on the part of national government.

Both the Republic of Ireland and the Island of Ireland itself (including the British-governed province of Ulster) are considered to be geographically part of the British Isles but this has more currency in considering Europe's geographical make-up than in political terms, for a variety of reasons. Among those in the Republic who resent the term 'British' the neutral term is 'Islands of the North Atlantic', though this has yet to gain widespread acceptance.

The history between Ireland and its neighbour in the form of the United Kingdom has been characterised by a number of invasions and wars, with legal incorporation beginning in 1801 with the Act of Union and ending in 1920 with the Government of Ireland Act, which saw the 26 counties of the Catholic south secede from the United Kingdom to leave the six counties of the Protestant north in place. Within the Island of Ireland itself, 4.1m are resident in the Republic and 1.7m live in the United Kingdom province of Ulster. Since the peace process brokered in the late 1990s, a number of North-South political institutions have been created and laws exist to accord political rights north and south of the border to all citizens of the island.

Ireland makes much of its Christian heritage and the role of religion is central to many people's lives throughout the country. In the 1990s, after decades of a sluggish economy, Ireland enjoyed an unparalleled economic boom and rebranded itself as a 'Celtic Tiger'. Tourism plays a major role in the national economy, both rural and in the capital Dublin while agriculture plays an important role. Ireland also enjoys a vibrant cultural life and heritage.

The Island of Ireland is divided into four traditional provinces, Connacht, Leinster, Munster and Ulster. These are further divided into 32 historic counties throughout the island, with six remaining north of the border in Northern Ireland (UK). Six counties of the nine counties of Ulster are in Northern Ireland, with three remaining in the Republic, thus rendering the term Ulster politically inaccurate if used to denote political boundaries. The four provinces have no administrative structure, either in the Republic or Northern Ireland. In the Republic the 26 counties are reflected in administrative counties, except in Tipperary and Dublin, which both have subdivisions. In Northern Ireland the six counties are defunct in local government terms, with 26 district councils existing in the province, though the six counties are used for some civil service functions under the direction of its political institutions.

Dublin has long served as the Irish capital since the island was divided into tribal kingdoms. The city of Dublin has a population of 495,000, though the metropolitan area including surrounding counties is estimated at 1.6m. Dublin City Council (known as the Dublin Corporation until 2002) is presided over by the Lord Mayor of Dublin, a ceremonial post appointed to from among the city's 52 assembly members. The post will become directly elected from 2011 but a previous proposal for an elected city chief was passed in 2002 but later stalled. Executive power currently resides with an appointed city manager, who oversees a staff of 6,000 city officials and employees. The city is twinned with Barcelona, Liverpool and San Jose, California.

Outside of Dublin, a varied pattern of local government exists. Local government in the Republic owes its genesis to the Local Government (Ireland) Act of 1898, which was actually passed by the United Kingdom's Parliament at Westminster with the aim of reforming Irish councils along the lines of those recently created on the mainland. This ushered in a two-tier system for most of the island, with all-purpose county boroughs in large urban centres. Subsequent legislation passed by the Irish Parliament has amended this Act but it remains in force today, in addition to the recognition of local government's status in the Constitution of Ireland, as



amended in 1999.

Instead of the 26 historic counties of the south, local government in the Republic is subdivided into 29 administrative counties, with 24 of the historic counties being reflected by an elected county council. Dublin is further divided into three counties while Tipperary is divided into North and South. There are five cities in the Republic, each with their own city council, Dublin, Cork, Galway, Limerick and Waterford. The five city councils are considered as having the same power and status as the counties. The sub-tier is generally known as town councils, though five (including the city of Kilkenny) style themselves borough councils. Local government in Ireland has seen a steady erosion of its powers since 1945, with a number of functions passing to central government-appointed boards. Like the city manager in Dublin, each council has an official manager, who carries out many tasks ordinarily reserved for political leaders elsewhere in European local government.

Though the pattern of local authorities in Ireland is complex and uneven, the role of local government itself corresponds to a general model of local administration, with locally-elected councils working within a policy framework determined by the centre. Therefore the elected element merely provides for minor local variance to such policies and the cover of local democracy within a highly centralised system. Principally, Irish local authorities exercise limited jurisdiction over education, health, housing, roads, water supply services, sewerage and waste, local economic development, planning, environmental protection, culture and sport and agriculture. A review of local government in Ireland commissioned by central government and reporting in 2006, recommended some fiscal reforms to allow for local revenue raising and more autonomy in local service provision, but this was ultimately rejected by central government.

Local government in Ireland is overseen by the Minister for Environment, Heritage and Local Government, with civil service responsibility residing with the Department of Environment, Heritage and Local Government. The minister between 1997 and 2002, Noel Dempsey of Fianna Fail, was seen as a reforming minister and oversaw substantial changes, including constitutional recognition of local councils and the introduction of public service reforms. The most recent occupant of the post, John Gormley, is known for his keenness to devolve more powers to local councils and introduce elected mayors, including a powerful metropolitan authority for Greater Dublin headed by an elected mayor. Gormley, a Green and a former Lord Mayor of Dublin, entered government in 2007 as part of the Fianna Fail-led coalition, which relies on the support of Greens, the Progressive Democrats and independents.

All councils are elected to by proportional representation and councillors generally belong to one of the Republic's main political parties. Most political parties in Ireland, north and south, owe their origins to either the Irish civil war or sectarian religious considerations. For instance, Fianna Fail and Fine Gael represented different sides in the civil war of 1922-23. Catholic-led Sinn Féin, which aims for a united Ireland, organises throughout the 32 counties, while the Democratic Unionist Party does not

http://www.nyulawglobal.org/Globalex/Denmark1.htm#_3.2_The_Executive

Дани улс

The Executive Power and the Local Municipalities

The executive power operates under the authority of the King - in practice, the Prime Minister. He or she appoints and dismisses the individual ministers, each administering different branches of state government. The main examples include the Prime Minister's Office, the Ministry of Foreign Affairs of Denmark, the Ministry of Finance, and the Ministry of Justice. There are nineteen ministers at this time (November 2008). Each ministry typically consists of a central department and a number of ministerial agencies under its jurisdiction.

Following the Constitutional Act of 1953 § 82, some public tasks are to be delegated to local municipalities. The extent and circumstances of the delegations is defined by statutory law, and the local municipalities exist under the supervision of state authority. According to the recent reform of the structure of local and regional governance, Denmark is divided into 98 local municipalities and five regions. Each municipality is governed by an elected body of locally elected representatives.

¹ Орон нутгийн зөвлөл нь манай улсын Иргэдийн төлөөлөгчдийн хурлын байгууллагатай адил төстэй юм.

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